

Decision \_\_\_\_\_

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking on the Commission's Own Motion to Adopt New Safety and Reliability Regulations for Natural Gas Transmission and Distribution Pipelines and Related Ratemaking Mechanisms.

Rulemaking 11-02-019  
(Filed February 24, 2011)

**DECISION GRANTING COMPENSATION TO THE UTILITY REFORM NETWORK  
FOR SUBSTANTIAL CONTRIBUTION TO DECISIONS (D.) 14-05-034, D.14-06-011,  
AND D.15-06-044**

<b>Intervenor: The Utility Reform Network (TURN)</b>	<b>For contribution to Decisions (D.) 14-05-034, D.14-06-011 and D.15-06-044</b>
<b>Claimed: \$68,712.99</b>	<b>Awarded: \$64,339.59 (6.4% reduction)</b>
<b>Assigned Commissioner: Michel Peter Florio</b>	<b>Assigned ALJ: Maribeth A. Bushey</b>

**PART I: PROCEDURAL ISSUES**

<b>A. Brief description of Decision:</b>	<p>This request seeks compensation for three decisions in R.11-02-019. This is TURN's third compensation request in this docket. TURN is not claiming compensation for any hours for which it has previously requested compensation. The three decisions are:</p> <p><u>D.14-05-034</u>: The Commission denied the application for rehearing of Pacific Gas and Electric Company (PG&amp;E) of D.13-12-053, in which PG&amp;E was fined \$14.35 million for violations of Commission Rule 1.1.</p> <p><u>D.14-06-011</u>: The Commission resolved an Order Directing PG&amp;E to Show Cause Why All Commission Decisions Authorizing Increased Operating Pressure Should Not Be Stayed Pending Demonstration that Records Are Reliable. This Order came to be known as the "Substantive Order to Show Cause (Substantive OSC)" to distinguish it from the "Procedural" OSC resolved in D.13-12-053. In D.14-06-011, the Commission found that: (1) while PG&amp;E's recordkeeping had progressed, the company still lacked</p>
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	<p>traceable, verifiable and complete records for all pipeline segments and fittings, and (2) good cause had not been shown to stay the implementation of previous decisions authorizing increased operating pressures.</p> <p><u>D.15-06-044</u>: The Commission adopted General Order (GO) 112-F incorporating new rules for California's natural gas transmission and distribution system operators.</p>
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**B. Intervenor must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ 1801-1812:**

	<b>Intervenor</b>	<b>CPUC Verified</b>
<b>Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):</b>		
1. Date of Prehearing Conference (PHC):	June 2, 2011	Verified.
2. Other specified date for NOI:	N/A	
3. Date NOI filed:	June 22, 2011	Verified.
4. Was the NOI timely filed?		Yes.
<b>Showing of customer or customer-related status (§ 1802(b)):</b>		
5. Based on ALJ ruling issued in proceeding number:	R.11-11-008	Verified.
6. Date of ALJ ruling:	1/3/12	Verified.
7. Based on another CPUC determination (specify):	N/A	
8. Has the Intervenor demonstrated customer or customer-related status?		Yes.
<b>Showing of "significant financial hardship" (§ 1802(g)):</b>		
9. Based on ALJ ruling issued in proceeding number:	P.10-08-016	Verified.
10. Date of ALJ ruling:	11/22/10	Verified.
11. Based on another CPUC determination (specify):	N/A	
12. Has the Intervenor demonstrated significant financial hardship?		Yes.
<b>Timely request for compensation (§ 1804(c)):</b>		
13. Identify Final Decision:	D.15-06-044 (See comment #1)	Verified.
14. Date of issuance of Final Order or Decision:	7/1/15	Verified.
15. File date of compensation request:	8/31/15	Verified.
16. Was the request for compensation timely?		Yes.

**C. Additional Comments on Part I:**

#	Intervenor's Comment(s)	CPUC Discussion
1	Consistent with the Commission's longstanding practice and Rule of Practice and Procedure 17.3 (establishing a final deadline for compensation requests relating to any decision in a proceeding of 60 days after the decision closing the docket), this compensation request is timely for all three decisions in R.11-02-019.	

**PART II: SUBSTANTIAL CONTRIBUTION****A. Did the Intervenor substantially contribute to the final decision (*see* § 1802(i), § 1803(a), and D.98-04-059).**

Intervenor's Claimed Contribution(s)	Specific References to Intervenor's Claimed Contribution(s)	CPUC Discussion
<p>1. <u>D.14-05-034</u>:</p> <p>TURN presented arguments demonstrating that PG&amp;E's legal claims with respect to state of mind and intent, continuing violations, and constitutional issues were without merit.</p> <p>The Commission agreed and rejected each of PG&amp;E's claims for rehearing.</p>	<p>TURN's Response to PG&amp;E's Application for Rehearing of D.13-12-053, 2/7/14, pp. 2-5.</p> <p>D.14-05-034, pp. 4-7 (state of mind and intent), 9-12 (continuing violations), pp. 13-18 (constitutional issues).</p>	Accepted.

<p>2. <u>D.14-06-011</u>:</p> <p>Through discovery and cross-examination, TURN carefully assessed the process by which PG&amp;E discovered its errors and, more generally the quality of PG&amp;E's Maximum Allowable Operating Pressure (MAOP) validation efforts.</p> <p>The Commission found that the parties "subjected PG&amp;E to a well-deserved rigorous and thorough review of the entire process by which the errors were discovered and evaluated, and PG&amp;E's recordkeeping improvement program generally." (See Comment #1)</p>	<p>The results of TURN's analysis are summarized in TURN's Opening Brief in Response to the Substantive OSC, 1/17/14, pp. 6-16.</p> <p>D.14-06-011, p. 13.</p>	<p>Accepted.</p>
<p>TURN argued that PG&amp;E's showing in the OSC failed to dispel concerns regarding ongoing problems with the accuracy of PG&amp;E's pipeline records.</p> <p>The Commission found that, despite improvements in its recordkeeping program, PG&amp;E lacked traceable, verifiable and complete records of all segments and fittings in its gas pipeline system and that continued close scrutiny by the Commission of PG&amp;E's efforts was necessary.</p>	<p>TURN's Opening Brief in Response to the Substantive OSC, 1/17/14, pp. 6-16.</p> <p>D.14-06-011, pp. 12, 17 (FOFs 1 and 3).</p>	<p>Accepted.</p>
<p>Notwithstanding PG&amp;E's continued problems with the accuracy of its records, TURN argued that reductions to the operating pressure of the lines in question were not warranted.</p>	<p>TURN's Opening Brief in Response to the Substantive OSC, 1/17/14, pp. 17-18.</p>	<p>Accepted.</p>

<p>TURN argued that the Proposed Decision (PD) should be modified to: balance the PD's acknowledgement of PG&amp;E's efforts to improve the accuracy of its records with necessary and appropriate findings that PG&amp;E's records still contain many inaccuracies, necessitating continued close CPUC scrutiny.</p> <p>The final decision includes changes along the lines suggested by TURN, including adding language that continuous improvement by PG&amp;E is needed to identify and correct remaining errors, that PG&amp;E's recordkeeping errors pose continuing safety concerns and that ongoing CPUC oversight is necessary.</p>	<p>Reply Comments of TURN on PD, 5/20/14, pp. 1-4.</p> <p>D.14-06-011, p. 17 (noting changes made to tone in response to TURN's comments). Compare additions to final decision, pp. 12, 14-15 with PD.</p>	<p>Accepted.</p>
<p><u>D.15-06-044:</u></p> <p>TURN proposed clarifying language to GO 112 Sections 101.4 and 145.1 regarding recordkeeping requirements.</p> <p>TURN's recommended changes were included in GO 112-F.</p>	<p>Comments of TURN on Revisions to GO 112-E, 9/27/13, pp. 1-2.</p> <p>D.15-06-044, Att. A, GO 112-F, Sections 101.4 and 145.1.</p>	<p>Accepted.</p>
<p>TURN recommended that, before the Commission adopt rule changes with potentially significant cost impacts, the Commission should develop a record that provides an estimate of the cost impacts.</p> <p>After TURN's comments, the Commission held a workshop on 12/17/14, at which there</p>	<p>Opening Comments of TURN on Proposed Rule Changes to GO 112-E, 7/18/14, pp. 1-3; Reply Comments of TURN and ORA, 7/25/14, pp. 1-3.</p> <p>December 17, 2014 Workshop.</p>	<p>Accepted.</p>

was discussion regarding estimating cost impacts of certain of the new rules, which satisfied TURN's concerns.		
<p>TURN (in a pleading prepared by TURN that ORA joined) recommended that the Commission reject the Sempra Utilities' proposal to fashion a new cost recovery mechanism before the next general rate case (GRC).</p> <p>The Commission did not adopt the rate recovery mechanism proposed by the Sempra Utilities.</p>	<p>Reply Comments of TURN and ORA on Proposed Rule Changes to GO 112-E, 7/25/14, pp. 3-4.</p> <p>D.15-06-044, p. 15 (setting implementation timing to coordinate cost recovery requests with GRCs, i.e., not allowing a new cost recovery mechanism).</p>	Accepted.

**B. Duplication of Effort (§ 1801.3(f) and § 1802.5):**

	<b>Intervenor's Assertion</b>	<b>CPUC Discussion</b>
<b>a. Was the Office of Ratepayer Advocates (ORA) a party to the proceeding?<sup>1</sup></b>	Yes, with respect to the work leading to Decisions 14-06-011 and 15-06-044. ORA did not file a response to PG&E's application for rehearing of D.13-12-053.	Verified. ORA filed an application for rehearing of D.13-12-054 with the City of San Carlos on 1/23/2014.
<b>b. Were there other parties to the proceeding with positions similar to yours?</b>	Yes, with respect to D.14-05-034 and with respect to some,	Verified.

<sup>1</sup> The Division of Ratepayer Advocates was renamed the Office of Ratepayer Advocates effective September 26, 2013, pursuant to Senate Bill No. 96 (Budget Act of 2013: public resources), which was approved by the Governor on September 26, 2013.

	but not all, positions related to D.14-06-011.	
<b>c. If so, provide name of other parties:</b> The Cities of San Bruno and San Carlos.		Verified.
<p><b>d. Intervenor's claim of non-duplication:</b></p> <p>With respect to D.14-05-034, only the Cities of San Bruno and San Carlos (the Cities) also submitted a response to PG&amp;E's application for rehearing. The Cities' response was less detailed than TURN's, both with respect to factual and legal arguments. Moreover, with respect to an application for rehearing raising important claims (PG&amp;E ultimately appealed the Commission's decision), the Commission should welcome the independent legal analysis of two different parties. Accordingly, with respect to the 4.0 hours that TURN devoted to its response, the Commission should not reduce TURN's award of compensation based on duplication.</p> <p>With respect to D.14-06-011, although TURN and the other parties named above shared concerns regarding the safety of PG&amp;E's operating pressures, each of the parties emphasized different points and made different recommendations. Only TURN unequivocally recommended that the operating pressures for Line 147 and the other lines in question not be reduced. In contrast, ORA and San Bruno focused much of their attention in cross examination on whether the operating pressure of Line 147 should be reduced. Although TURN, ORA and San Bruno all devoted analysis to probing PG&amp;E's claims regarding the accuracy of its records, the parties actively coordinated their efforts in order to minimize duplication of effort, including avoiding duplication of data requests and cross examination topics. For example, only TURN pursued in discovery and cross examination issues related to the types of MAOP Validation errors and PG&amp;E's reported error rates for each of those types, as reflected on pages 11-13 of TURN's opening brief. For all of these reasons, TURN submits that the Commission should find that there was no undue duplication between TURN's participation and that of the other intervenors with respect to D.14-06-011.</p> <p>With respect to D.15-06-044, the adopted changes to GO 112 proposed by TURN were unique to TURN. ORA pursued other issues, such as rules relating to calculation of MAOP. While TURN and ORA shared concerns regarding the cost impact of certain proposed changes, TURN and ORA actively coordinated so that only one party devoted efforts to that issue at any one time. For example, TURN drafted reply comments on 7/25/14 in which ORA joined, thus avoiding a duplicative pleading by ORA. In addition, only TURN addressed the cost issues at the 12/17/14 workshop. After that point, ORA addressed the cost issues and TURN did not devote any more time to them. For these reasons, TURN submits that the Commission should find that there was no undue duplication between TURN's participation and that of ORA with respect to D.15-06-044.</p>		Verified.

### C. Additional Comments on Part II:

#	Intervenor's Comment	CPUC Discussion
1	<p><u>Substantial contribution for developing the record</u>: The Commission has granted compensation where a parties' participation contributed to the decision-making process even if specific recommendations were not adopted, and where a parties' showing assisted the Commission in its analysis of an issue. E.g. D.15-08-018, p. 10 ("Although most of TURN's specific recommendations were not adopted in this decision, TURN aided the Commission's decision-making by enhancing the record on the issues of what methodology should be used to conduct the cost-benefit analysis and what metrics should be used to assess the utilities' performance."); D.02-07-030 (the Commission based its finding of substantial contribution largely on the efforts intervenors made to develop the record, even where the adopted decision did not rely on that record); D.98-11-014, p. 8 ("TURN contributed to D.97-08-055 by raising this issue and developing the record on the implications of this conflict).</p> <p>Here, the Commission recognized the value and importance of TURN's efforts to assess the success of PG&amp;E's MAOP Validation efforts, by noting that TURN and the other parties had undertaken a "well-deserved rigorous and thorough" review of PG&amp;E's recordkeeping program. D.14-06-011, p. 13.</p>	<p>The Commission agrees with this contention.</p> <p>The CPUC has previously held that unsuccessful intervenors can still substantially contribute to the Commission's understanding, contributing its "unique perspective" on an issue. "... (T)he critical factor... is whether the intervenor has assisted the Commission in carrying out its statutory mandate to regulate public utilities in the public interest."<sup>2</sup></p>

<sup>2</sup> *The Utility Reform Network v. Public Utilities Com.*, 166 Cal. App. 4th 522, 535.



**PART III: REASONABLENESS OF REQUESTED COMPENSATION****A. General Claim of Reasonableness (§ 1801 and § 1806):**

<b>a. Intervenor's claim of cost reasonableness:</b>	<b>CPUC Discussion</b>
<p>Although none of the three decisions that are the subject of this request had a direct impact on rates, TURN's participation on all three matters had a beneficial impact on safety. TURN's substantial contributions with respect to Decisions 14-05-034 and 14-06-011 promoted ensuring timely, candid and complete disclosure of material utility errors that could affect safety, and encouraged continued intensive efforts by PG&amp;E to improve the accuracy of its pipeline system records. TURN's substantial contributions to D.15-06-044 similarly helped to improve safety by clarifying and enhancing the safety rules in GO 112, at what TURN expects will be reasonable cost to ratepayers. These safety benefits are sure to outweigh the relatively small amount of compensation that TURN claims here.</p>	<p>Accepted.</p>
<p><b>b. Reasonableness of hours claimed:</b></p> <p>TURN was able to achieve its substantial contributions to the three decisions that are the subject of this request through the expenditure of a modest amount of time – approximately 115 hours (excluding time preparing this request), which equates to less than three weeks of full-time work. TURN was able to be highly efficient because of Mr. Long's considerable previous experience – in this docket and in the enforcement cases, I.11-02-016 and I.12-01-007 -- dealing with PG&amp;E pipeline safety and recordkeeping issues. As a result, despite the technical complexity of the underlying issues related to MAOP and recordkeeping, TURN did not need to retain an expert consultant.</p> <p>The bulk of the time TURN claims in this request relates to the Substantive OSC that was resolved in D.14-06-011. Much of this time was necessary in order to scrutinize PG&amp;E's claims in the initial Substantive OSC hearing (on 9/6/13) to the effect that PG&amp;E has some of the strongest records in the business and were a model for the rest of the industry. Such sweeping claims needed robust and thorough examination and, lacking a Commission "prosecutor" for the OSC (a role SED would ordinarily play in safety enforcement proceedings), TURN felt compelled to take a lead role in scrutinizing PG&amp;E's claims of success with its MAOP Validation efforts. As noted above, TURN was able to be efficient in its analysis of PG&amp;E's efforts because of Mr. Long's considerable prior experience with these issues. As stated in Comment #1 in Part II.C above, the Commission recognized that such efforts were fully warranted in this case. Accordingly, the Commission should find that all of TURN's hours with respect to D.14-06-011 were reasonably and efficiently incurred and entitled to full compensation.</p>	<p>We reduced TURN's request in 2013 for excessive hours claimed for work on the OSC. We otherwise find that the hours claimed are reasonable.</p>

TURN has previously been awarded compensation for its work in this docket in Decisions 13-09-022 and 15-03-037. TURN is not claiming compensation for any hours or expenses for which it requested compensation in its previous claims for compensation in this docket.

TURN submits that all of the hours claimed in this request were reasonably necessary to the achievement of TURN's substantial contributions, and no unnecessary duplication of effort is reflected in the attached timesheet.

TURN's request also includes 11.50 hours devoted to the preparation of this request for compensation by Mr. Long. (TURN began preparing this request in July 2014 after the issuance of D.14-06-011 and then decided it would be more efficient to submit a single request after a decision on the GO 112 issues.) This is a modest and reasonable figure that reflects the minimum time necessary to prepare a quality claim for compensation with respect to three decisions and that addresses all of the Commission's requirements. Mr. Long has prepared this request because of his role as TURN's attorney in this matter and his detailed knowledge of TURN's work effort.

**c. Allocation of hours by issue:**

TURN has allocated its daily time entries by activity codes to better reflect the nature of the work reflected in each entry. TURN has used the following activity codes:

Code	Description	Allocation of Time*
Rule 1.1	Work related to responding to PG&E's application for rehearing of D.13-12-053	4%
OSC	Work related to the Substantive OSC	59%
GO 112	Work related to revisions to GO 112	15%
GP	Work related to general participation in this matter, such as participating in the OSC prehearing conference, reviewing pleadings and participating in meet and confer sessions with the other parties.	6%
GH	Evidentiary hearings and workshop participation	16%

\* Percentages in this column do not include time preparing this compensation request.

In addition, TURN used the code "Comp" for work related to preparing this claim for compensation.

Verified.

Because the OSC decision, D.14-06-011 does not identify a breakdown of issues and TURN recorded all its time related to the Substantive OSC to the code "OSC", TURN did not subdivide its time devoted to the Substantive OSC into sub-issues. However, in the event the Commission would like a sub-division of this time, TURN estimates that its hours devoted to the OSC break down as follows: 86% to the issue of the ongoing accuracy of PG&E's records and related safety concerns, and 14% to the issue of the need for operating pressure reductions. If the Commission believes that a different approach to issue-specific allocation is warranted here, TURN requests the opportunity to supplement this section of the request.

**B. Specific Claim:\***

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
Thomas Long	2013	75.75	\$555	D.14-05-015, p. 28	\$42,041.25	67.87	\$555	37,667.85
T. Long	2014	40.75	\$570	D.15-05-026, p. 8	\$23,227.50	40.75	\$570	\$23,227.50
T. Long	2015	0.25	\$570	Same as 2014	\$142.50	.25	\$570	\$142.50
Subtotal: \$65,411.25						Subtotal: \$61,037.85		
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
T. Long	2014	2.0	\$285	½ of 2014 rate	\$570	2	\$285	\$570.00
T. Long	2015	9.5	\$285	½ of 2015 rate	\$2,707.50	9.5	\$285	\$2,707.50
Subtotal: \$3,277.50						Subtotal: \$3,277.50		
COSTS								
#	Item	Detail			Amount	Amount		
1	Copies	Photocopies of TURN pleadings			\$12.00	\$12.00		
2	Postage	Postage for mailing TURN pleadings			\$12.24	\$12.24		
Subtotal: \$24.24						Subtotal: \$24.24		
TOTAL REQUEST: \$68,712.99						TOTAL AWARD: \$64,339.59		

**\*\*We remind all intervenors that Commission staff may audit their records related to the award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Intervenor's records should identify specific issues for which it seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.**

**\*\*Travel and Reasonable Claim preparation time typically compensated at ½ of preparer's normal hourly rate**

<b>ATTORNEY INFORMATION</b>			
<b>Attorney</b>	<b>Date Admitted to CA BAR<sup>3</sup></b>	<b>Member Number</b>	<b>Actions Affecting Eligibility (Yes/No?) If "Yes", attach explanation</b>
Thomas Long	December 11, 1986	124776	No

### **C. Attachments Documenting Specific Claim and Comments on Part III**

<b>Attachment or Comment #</b>	<b>Description/Comment</b>
1	<b>Certificate of Service</b>
2	<b>Daily Time Records for Attorneys with Coded Time Entries</b>
3	<b>Cost Detail</b>

### **D. CPUC Disallowances and Adjustments:**

<b>Item</b>	<b>Reason</b>
Disallowance for excessive hours.	In 2013, TURN requested 43.75 hours for work on the Order to Show Cause, or 57.8% of its 2013 claim of 75.75 hours. After reviewing timesheets, we reduce 7.88 hours as excessive. We compensate TURN for a total of 67.87 hours in 2013.

## **PART IV: OPPOSITIONS AND COMMENTS**

<b>A. Opposition: Did any party oppose the Claim?</b>	No.
<b>B. Comment Period: Was the 30-day comment period waived (<i>see</i> Rule 14.6(c)(6))?</b>	Yes.

<sup>3</sup> This information may be obtained through the State Bar of California's website at <http://members.calbar.ca.gov/fal/MemberSearch/QuickSearch>.

**FINDINGS OF FACT**

1. TURN has made a substantial contribution to D.14-05-034, D.14-06-011, and D.15-06-044.
2. The requested hourly rates for TURN's representatives are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
3. The claimed costs and expenses, as adjusted herein, are reasonable and commensurate with the work performed.
4. The total of reasonable compensation is \$64,339.59.

**CONCLUSION OF LAW**

1. The Claim, with any adjustment set forth above, satisfies all requirements of Pub. Util. Code §§ 1801-1812.

**ORDER**

1. The Utility Reform Network shall be awarded \$64,339.59.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company shall pay The Utility Reform Network (TURN) the total award. Payment of the award shall include compound interest at the rate earned on prime, three-month non-financial commercial paper as reported in Federal Reserve Statistical Release H.15, beginning November 14, 2015, the 75<sup>th</sup> day after the filing of TURN's request, and continuing until full payment is made.
3. The comment period for today's decision is waived.

This decision is effective today.

Dated \_\_\_\_\_, 2015, at San Francisco, California.

**APPENDIX****Compensation Decision Summary Information**

<b>Compensation Decision:</b>		<b>Modifies Decision?</b>	No
<b>Contribution Decision(s):</b>	D1405034, D1406011, D1506044		
<b>Proceeding(s):</b>	R1102019		
<b>Author:</b>	ALJ Bushey		
<b>Payer(s):</b>	Pacific Gas and Electric Company		

**Intervenor Information**

<b>Intervenor</b>	<b>Claim Date</b>	<b>Amount Requested</b>	<b>Amount Awarded</b>	<b>Multiplier?</b>	<b>Reason Change/Disallowance</b>
The Utility Reform Network (TURN)	8/31/15	\$68,712.99	\$64,339.59	N/A	Disallowance for excessive hours.

**Advocate Information**

<b>First Name</b>	<b>Last Name</b>	<b>Type</b>	<b>Intervenor</b>	<b>Hourly Fee Requested</b>	<b>Year Hourly Fee Requested</b>	<b>Hourly Fee Adopted</b>
Thomas	Long	Attorney	TURN	\$555	2013	\$555
Thomas	Long	Attorney	TURN	\$570	2014	\$570
Thomas	Long	Attorney	TURN	\$570	2015	\$570

**(END OF APPENDIX)**